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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,709	10/29/2003	Gregory Gamble	4286-P03309US01	3909

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EXAMINER

LIEU, JULIE BICHNGOC

ART UNIT	PAPER NUMBER
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2636

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/722,709	GAMBLE, GREGORY	
	Examiner	Art Unit	
	Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed October 17, 2005.

Claims 1, 3, and 10 have been amended. Claim 9 has been canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, "may be" is indefinite. The term "the device" (line 3, 5, 8) and "the entire device" lack antecedent basis. Further, is "the entire device" the same as "the device"? For examining purposes, "the entire device" is assumed to be different from "the device". It is assumed that "the device" is a smoke detector or the like and "the entire device" as the decorative cover.

Claim Rejections - 35 USC § 103

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jameson et al. (US Patent No. 4,529,976) (cited by the applicant).

Claim 1:

Jameson discloses decorative cover for smoke detectors and like devices mounted on a wall or ceiling comprising:

- a. a cover member 3 consisting of a generally planer sheet of essentially opaque material of approximately the shape of the device it is covering and somewhat larger than the device to be covered, the outer surface of which cover may be selectively colored, patterned or decorated or left for decoration by a decorator or advertiser, (see fig. 5),
- b. a plurality of resilient connector legs 18 affixed to the inner side of the cover and extending toward the device to be covered in a pattern positioned to engage and deflect against selected distributed points of engagement on the device to be covered, and
- c. cam surfaces 76 at the free ends of the resilient legs positioned to be the surface of engagement and arranged to laterally deflect the respective legs when they contact and are moved against the distributed points of engagement so that frictional forces imposed by the resilience of the legs while deflected are directed to maintain frictional engagement at the respective points of engagement on the device to be covered due to the collective opposed forces of the distributed legs on the engagement points.

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Though not clearly stated, it appears that the entire smoke detector device in Jameson is molded in one piece from a resinous material which in its finished form will retain its shape but provide sufficient resiliency to permit the legs to be deflected by and frictionally engage the device to be covered because as appears in figure 1, the legs must be deflectable so that they can be disengaged from the smoke detector without being broken or damaged when removed from smoke detector housing.

Claim 2:

In Jameson's device, at least one of the legs is provided with a shoulder beyond the cam surface to act as a latch so that, when the shoulder passes the structure which provides the points of engagement, the resilience of the legs will urge the shoulder behind that structure in the nature of a latch so that each shoulder on each leg will be in position to oppose forces acting to remove the cover from the device. See fig. 9.

Claim 3:

In the decorative cover in Jameson all of the legs are provided with a similar latching shoulder at essentially the same location so that all legs may move to latch at essentially the same time.

Claim 4:

The cam surfaces 76 in Jameson are oriented to contact the points of engagement which are selected to move each of the legs outwardly so that its resiliency urges it back inwardly.

Claims 5 and 6:

There are at least 3 resilient legs in Jameson's decorative cover and arranged in circular configuration with their cams arranged so that a circular device will deflect the legs outwardly.

See fig. 8.

Claim 7:

The cover in Jameson employs 4 legs and the legs are arranged in circular configuration with their cams arranged so that a circular device will deflect the legs outwardly. Fig. 14.

Claim 8:

The device to be covered and the cover in Jameson are circular and the legs are arranged in a circular pattern.

Applicant's Arguments

4. The Applicant has presented the following arguments:

"The Examiner was kind enough to indicate claim 8 allowable if rewritten in independent form. However, we request instead the reconsideration of claim 9 which has been inserted into claim 1 to amend claim 1. The Examiner has cited the Jameson et al. patent which is structurally quite similar to applicant's device, but Jameson et al. is far more elaborate and expensive to make being made of two pieces. Fig. 8 shows the shield 53 attached by clips 27 comprising a pair of prongs 28 used to attach the shield 53 to ring 17 as seen in Fig. 4. The ring 17 in turn has prongs 18 to attach it to the smoke detector or other device. The two-piece device is more difficult and expensive to manufacture as each piece must be made separately and then clipped together.

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Applicant's claim 9 called for a one-piece molded structure as shown in the drawings. Such a structure is simpler, much easier and less expensive to manufacture and not subject to the problem of possible separation of the two pieces from one another. The Examiner is respectfully requested to consider the amendment of claim 1 to include the limitations of claim 9 and allow the composite claim 1. The remaining claims which are dependent from claim 1 have not been cancelled because if claim 1 as amended is patentable these claims should be and have advantage lent by the one piece structure."

Allowable Subject Matter

6. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Applicant's Arguments

5. Applicant's arguments have been fully considered but they are not persuasive.

The examiner submits that the fact the Jameson device is far more elaborate and expansive would not render the Applicant's invention patentable because

1) All elements of claims 1-8 are met by the reference except it is not stated in the reference that the entire device being made of resinous material which in its finished form will retain its

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shape but provide sufficient resiliency to permit the legs to be deflected by and frictionally engage the device to be covered; however, the rationale has been presented in the rejection as for how this feature would have been obvious to one skilled in the art.

2) The argument that the entire device which is molded in one piece but the cover device in Jameson is made of two pieces is not relevant because the shield 53 is not included in the rejection. Only the cover 52 is used in the rejection.

The applicant's argument is not deemed persuasive and therefore the rejection is maintained.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Jan. 07, 06